

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

DANIEL THOMAS HARVEY,

Petitioner,

vs.

GEORGE J. CHANOS, *et al.*,

Respondents.

3:07-cv-00114-JCM-VPC

**ORDER**

On November 20, 2008, the court entered an order dismissing the habeas corpus petition in this case (docket #16). Judgment was entered on the same day (docket #17).

Subsequently, petitioner filed a notice of appeal (docket #18). Petitioner has not filed a motion for certificate of appealability, and the matter is stalled. Thus, the court will *sua sponte* address the issue to allow the court of appeals to proceed on the matter.

**Certificate of Appealability**

In order to proceed with his appeal, petitioner must receive a certificate of appealability. 28 U.S.C. § 2253(c)(1); Fed. R. App. P. 22; 9<sup>th</sup> Cir. R. 22-1; *Allen v. Ornoski*, 435 F.3d 946, 950-951 (9<sup>th</sup> Cir. 2006); *see also United States v. Mikels*, 236 F.3d 550, 551-52 (9<sup>th</sup> Cir. 2001). Generally, a petitioner must make “a substantial showing of the denial of a constitutional right” to warrant a certificate of appealability. *Id.*; 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529

1 U.S. 473, 483-84 (2000). “The petitioner must demonstrate that reasonable jurists would find the  
2 district court’s assessment of the constitutional claims debatable or wrong.” *Id.* (quoting *Slack*, 529  
3 U.S. at 484). In order to meet this threshold inquiry, the petitioner has the burden of demonstrating  
4 that the issues are debatable among jurists of reason; that a court could resolve the issues differently;  
5 or that the questions are adequate to deserve encouragement to proceed further. *Id.*

6 This court has considered the issues raised by petitioner, with respect to whether they  
7 satisfy the standard for issuance of a certificate of appealability, and determines that none meet that  
8 standard. The court will therefore deny petitioner a certificate of appealability.

9 **IT IS THEREFORE ORDERED** petitioner shall not be granted a certificate of  
10 appealability.

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12 Dated this 7th day of July, 2010.

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15 UNITED STATES DISTRICT JUDGE  
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